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AND HAZARDOUS MATERIALS

HEARING ON

REAUTHORIZATION OF THE FEDERAL RAIL SAFETY PROGRAM

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TESTIMONY OF

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Committee on Transportation and Infrastructure
Subcommittee on Railroads, Pipelines, and Hazardous Materials
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Testimony of Teamster Rail Conference President Edward W. Rodzwicz

Thank you and good afternoon Madame Chairwoman, Mr. Ranking Member, and Members of the Subcommittee. My name is Ed Rodzwicz, and I am the President of the Teamsters Rail Conference.

On behalf of the Conference — and more than 70,000 men and women we represent — I want to thank the Committee for holding today's hearing and for providing us with the opportunity to present you with our views on reauthorization of the federal rail safety program.

The federal rail safety program is of vital concern to our members, who place their lives on the line every day in order to transport the people and the goods that keep our economy running. The commitment to safety of the Rail Conference constituent divisions — the Brotherhood of Locomotive Engineers and Trainmen and the Brotherhood of Maintenance of Way Employes Division — is second to none. Sadly, however, within the last six months, seven roadway workers have been killed in the line of duty. That result is unacceptable to the Rail Conference and I challenge the FRA and the industry to move forward immediately and decisively to correct the causes of those tragic deaths.

The BLET and BMWED both are proud members of the FRA's Railroad Safety Advisory Committee and have served since RSAC's inception over a decade ago. We believe that, with some significant exceptions I will mention later, forward strides have been taken in improving railroad industry safety because of consensus-based rulemaking under the RSAC process, and — although we don't always agree with them in the end — we appreciate the respect and consideration we receive from our AAR and Short Line RSAC partners.

The Rail Conference also is proud of its relationship with the FRA. Joe Boardman has been an outstanding Administrator and excellent leader. And we also want to recognize Associate Administrator Jo Strang for her innovative approaches to safety and strong motivational skills.

Under FRA's leadership in the RSAC process, we continue to work on numerous safety-related subjects, from passenger safety to next-generation technology to medical standards for safety-critical workers, and I am confident that safety in the industry will continue to improve. Of course, consensus among stakeholders is not always possible and, in such cases, we encourage FRA to always err on the side of caution and keep safety ahead of all other competing considerations. The unions of the Teamsters Rail Conference look forward to continuing our efforts in working with the FRA and all stakeholders to improve the safety of railroad operations through the RSAC process and all other available means. We believe FRA's performance strongly warrants a multi-year reauthorization of the federal rail safety program, so that we can proceed in an orderly fashion in the years ahead.

As you may know, Madame Chairwoman, accidents and injuries related to human error and other human factors continue to be one of the most serious concerns confronting us. A number of responsive approaches are being considered, including: "federalizing" certain operating procedures; expanding FRA's enforcement power by broadening the categories for which a civil penalty can be imposed upon individual workers; and identifying and implementing ways to collect and analyze accident precursor and other "close call" data as a proactive means of accident prevention.

The BLET was a founding participant in the Confidential Close Calls Reporting System Demonstration Project, and serves on the C^3RS National Steering Committee. This project is a joint FRA/labor/management effort to gather data on close calls, and is similar to a pair of programs that have served the aviation industry well for about 30 years. The first pilot begins operation tomorrow on the Union Pacific Railroad in North Platte, Nebraska, and we hope it becomes a powerful tool for improving safety.

Another initiative in which we're involved — along with the UTU — is a behavior-based accident prevention pilot project developed by FRA for UP's San Antonio Service Unit called Changing At-risk Behavior, or "CAB." CAB provides a system for gathering data on "close call" type behaviors outside of normal discovery channels, and the analysis of the data is used to adjust behaviors, procedures and practices to eliminate potential accident factors. A presentation on the program was very well received at the recent Annual Meeting of the Transportation Research Board.

Unfortunately, as C^3RS was in development and CAB was in a key phase, UP decided to revise its disciplinary policy by substantially increasing the length of suspensions for a number of operating rule violations. The reaction of our BLET General Chairman was to suspend participation in a variety of safety-related programs in protest. However, the unique nature of these two programs — and FRA's strong support for and leadership of them — led us not to abandon C^3RS and CAB, and we believe they will continue to be productive.

Thus, we believe that the most promising approach is one that does not focus solely on the person who is closest in place and time to an accident. Rather, comprehensive accident prevention and safety enhancement must also include continuing study of and adjustment to the work environment as a whole. Accordingly, we believe the federal rail safety program needs to address a number of issues to complete the circle, and I will briefly touch on some of them in no particular order of significance.

The employee protections provided in 49 U.S.C. 20109 need to be updated for two reasons. One relates to the general expansion of individual liability under FRA regulations. And, in this post-911 world — in light of duties and obligations that the Transportation Security Administration and Pipeline and Hazardous Materials Administration have proposed — the other involves a potential need to communicate general safety and security concerns. We are presently working on a specific proposal to address this issue.

The second area is fatigue, which the National Transportation Safety Board identified as the probable cause of the June 28, 2004 accident in Macdona, Texas that killed three, injured 29, and caused a chlorine gas release and $5.7 million in damages. At a minimum, we need to address fatigue by (1) counting "limbo time" as hours of service; (2) requiring a 10-hour calling time for operating crews, so crewmembers have an adequate opportunity to rest before reporting for work; and (3) now that the FRA's has validated a version of the military's "Hursh model" as a tool that can relate fatigue and accident risk, implementing other appropriate, basic fatigue countermeasures. These basic countermeasures can be supplemented as long-term study of fatigue continues.

Like operating crafts, maintenance of way forces are also affected by fatigue. However, the causes of maintenance of way employee fatigue — or MW fatigue — and the solution to the problem for MW employees is very different than the causes and solutions for operating craft employees. In the Maintenance of Way craft, fatigue is most often caused by long commutes, inadequate overnight lodging, and lack of manpower.

The extremely long commutes for MW employees are a direct result of rules sought by the railroads before Presidential Emergency Board No. 219 in 1991. PEB-219 essentially removed contractual territorial limits for many MW employees engaged in programmed production maintenance work such as rail and tie replacement. As a result, approximately 25-30 percent of MW employees are required to travel the entire railroad system to work and an additional 20-25 percent are working away from home in other traveling gangs that cover smaller distances.

For example, a member employed on a UP System Production Crew is required to report for assignments anywhere on the 32,000+ route mile system encompassing 23 states and covering two-thirds of the territory of the United States from New Orleans to Los Angeles and from Los Angeles to Portland or Chicago. The same holds true for all the other major freight railroads. System Production Crews must travel the entire railroad system to work.

As a result, at the beginning of the work period, these workers are forced to travel on their scheduled days off, their "rest days, " in order to reach a job location which is usually hundreds, and often times over 1,000, miles from home. These excessive commutes have been independently documented in a December 2006 FRA-sponsored report (DOT/FRA/ORD-06/25) conducted by Foster-Miller.

The methodology for this study was a survey of a random sample of working MW employees who completed a background survey and kept a daily log over a 2-week period. The published report includes employee comments on fatigue related matters such as travel, sleep location, etc. A small sampling of these published comments are reproduced below:

Travel

"It was a typical Monday after traveling. It was 9 hours to the motel and between that and getting up between 2-3 a.m. I am very tired. On this job we are working early Monday hours because that is the only time that we can get the track."

"It seems Monday's I am usually more tired than any other day of the week. It takes me 8 hours to drive from home to my lodging motel."

"I left home at 0400. How do you expect me to keep my family together? My mother is also in the hospital. Drove 900 miles just to get to work."

"My drive home was 1,000 miles which is a 14 hour drive."

Sleep Location

"I have difficulty sleeping at times due to noise in the motel."

"Did not sleep good at camp (car). There were passing trains that work me up 2 times. And a co-worker woke up and opened the door and it woke me up."

"Employees opening and closing the camp (car) door as they come in. Employees snoring very loudly after being out late."

The Teamsters Rail Conference believes that the solution to these excessive fatigue-inducing conditions is to reinstate some reasonable limits on the size of the territory these workers have to cover. It is simply unreasonable to expect people to commute in excess of 8-14 hours and be alert and attentive upon arrival. Couple the long commutes with noisy double occupancy lodging, or even worse, 8-10 persons lodged together in a decrepit and unclean camp car, it is little wonder why we have fatigue-related safety issues in the MW craft. Smaller territories, better overnight lodging with single occupancy, and the elimination of camp cars are the keys to reducing fatigue and improving safety for MW employees and railroad operations.

We further believe that MW fatigue also is — to some degree — a function of staffing levels. Railroads are not hiring and retaining a sufficient number of employees to adequately maintain the nation's rail infrastructure. There has been a precipitous drop in BMWED staffing levels over the past 25 years. For example, BMWED's average monthly active (i.e., working at the craft) membership in 1981 was 90,610 members. Average monthly active membership fell to 50,795 by 1991 and stands at 30,579 today. This represents a manpower decrease of approximately 66% in just 25 years. While some of this decrease can be attributed to improved technology and greater worker productivity, the fact remains that existing track force levels are insufficient for the task at hand.

There also is a safety aspect to chronic understaffing. It takes appropriate staffing levels and quality training to keep the nation's rail infrastructure properly inspected and maintained,

especially in light of the record ton-miles of freight being transported on the railroads. The BMWED has lost a significant number of members over the past several decades due to retirements, injuries, and other natural attrition. As a result, BMWED members are working longer hours, shorthanded, and their complaints about insufficient manpower continue to fall on deaf ears.

This lack of manpower causes the nation's rail infrastructure to be maintained in a reactive, rather than a proactive mode. Track caused derailments account for approximately one-third of all rail accidents, and this trend will continue to increase until manpower in the maintenance of way department is brought into line with the track miles employees are expected to inspect and repair. Railroad safety is largely dependent on proper track maintenance, and today's high volume, heavy tonnage trains require increased, rather than decreased, track maintenance. Thus, rail safety requires sufficient manpower in maintenance of way track forces to properly and proactively address current track deficiencies and reduce derailments on our nation's rail infrastructure.

While I'm on the subject of staffing and safety, I want to reiterate something you've heard from the Rail Conference and from our Divisions in the past. We fully support the development and deployment of positive train control. PTC as a safety overlay on top of existing signal and train control systems can provide each and every Rail Conference member with an important added margin of personal safety. However, we oppose implementation of PTC as a means of reducing crew size, because trading a set of known risks for a set of unknown risks will jeopardize public safety and the safety of our members.

Increased individual worker liability and the testing and implementation of a number of next-generation technologies also mean that training standards need to be improved. The two newest FRA regulations that include training components — Part 240, governing certification of locomotive engineers, and Subpart H of Part 236, governing processor-based signal and train control systems — prescribe substantially superior training standards than those contained in older FRA regulations. Second-class training is insufficient if first-class performance is going to be expected and demanded of railroad workers. I also want the Subcommittee to know that the Rail Conference fully supports Mr. Wytkind's statements concerning certification of carmen, conductors, mechanics, and signalmen, as well as with respect to staffing, training and certification for hazardous materials movements.

In addition to the numerous studies currently being undertaken by FRA, which we support, we believe several other studies are warranted. These include: maintenance of way staffing levels; the safety impact of drivers of railroad crews to and from duty assignments; an evaluation of conflicting and confusing railroad operating rules; follow-up studies of the Switching Operations Fatalities Analysis Working Group, or SOFA, and of the Collision Analysis Working Group. We also believe there should be a study of the locomotive cab environment and its impact on human performance. Moreover, the FRA should reopen its investigation and study regarding the discharge of human waste along the tracks where maintenance of way workers perform their tasks, which is a subject I address in detail a bit later.

Suffice it to say for now that I simply cannot believe that — in the 21st Century — railroads use on-board toilets that dump human waste on the tracks where our members work.

Just as the industry finds its capacity stretched to the maximum by transportation market demands, so too is the cadre of FRA safety inspectors stretched to the maximum. With capacity scheduled for expansion, and with several next-generation technologies now in development and in the early stages of testing and implementation, FRA cannot be expected to maintain an adequate level of oversight at current staffing levels. We strongly support reauthorization that includes a provision for adding several hundred additional railroad safety inspectors.

We also believe that reauthorization should address the ongoing problem concerning main track switches in "dark territory" — routes on which there is no signal system. A misaligned main track switch in dark territory led to the January 6, 2005 catastrophe in Graniteville, South Carolina, in which BLET member and officer Chris Seeling and eight others were killed, and over 550 were injured because of a chlorine gas release. Another misaligned main track switch in dark territory was involved in the September 15, 2005 collision in Shepherd, Texas, that took the life of BLET member and officer Gary Bailey.

This is one area where we don't believe FRA has gone far enough. Thus far, the focus has been on changing the behavior of railroad workers who throw switches, and includes the potential for individual liability for a civil penalty. However, off-the-shelf switch position detection technology that would eliminate this risk altogether has been available for some time. In fact, this technology will have to be installed on any dark territory route in order for a railroad to implement a positive train control system. We don't believe railroads should be permitted to wait that long to implement a safeguard that is sitting gathering dust.

In its report on the Graniteville accident, the NTSB made two specific recommendations — R-05-14 and R-05-15 — that address main track switches in dark territory: installing an automatically activated device, independent of the switch banner, that will, visually or electronically, compellingly capture the attention of employees involved with switch operations and clearly convey the status of the switch both in daylight and in darkness; and requiring railroads, in non-signaled territory and in the absence of switch position indicator lights or other automated systems that provide train crews with advance notice of switch positions, to operate those trains at speeds that will allow them to be safely stopped in advance of misaligned switches. We believe these recommendations should become mandatory requirements. I also want to mention here that we have an excellent relationship with the NTSB and to congratulate Chairman Mark Rosenker for working with us on issues of mutual concern.

Decades ago, because there were no proper lodging facilities, all railroads were compelled to provide sleeping facilities and food for their road gangs that traveled through the deep, remote rural countryside taking care of the track maintenance for the railroad, replacing the railroad ties and worn rails, maintaining the bridges, trestles, crossings, and other portions of the infrastructure. Because they were in remote locations, these road gangs were housed in old rail cars, often converted box cars, called "camp cars" that were outfitted with sleeping bunks,

sometimes showers, and sometimes toilets, although often the toilet was simply an outhouse placed some distance from the camp car.

Over time, as clean and affordable lodging became readily available in virtually all sections of the country, all but one of the rail carriers abandoned the camp cars because lodging employees in hotels or providing them with a cash per diem payment was both economical and the "right thing to do" to treat their workers better than before. However, Norfolk Southern continues to use these camp cars despite the fact that there are decent lodging facilities available nearby at reasonable rates.

The Norfolk Southern camp cars the workers return to at the end of an exhausting and punishing day are small, cramped facilities — measuring ten feet by forty feet — that must be shared by up to eight grown men. The men sleep in small bunk beds, smaller than a twin sized mattress, much like one would find today in a summer camp for children. The men generally sleep four on each end of the camp car, with sinks and showers in the middle. The water in most camps cars is non-potable, meaning it is not fit for drinking, but it is the only water available for brushing their teeth, washing their face and showering.

The camp cars provide the eight men with 400 square feet of living space — 50 square feet each — but given most of the room is taken up with the bunk beds, showers, sinks, hot water heater and lockers, there ends up to be less than 20 square feet per person. This is less space than in a death row prison cell in Florida, where each death row inmate has 54 square feet of living space and an indoor toilet. BMWE workers living in NS camp cars have to walk outside, through the elements — whether it be rain, snow, sleet, or hail — to use an often dark and dirty outhouse or porta-john.

The beds are small — measuring 2'8" x 6' — meaning if a worker wants to roll over, he or she has to roll over in place or otherwise "roll" out of bed and onto the floor. And if they are over 6 feet tall, as many maintenance of way workers are, they have to sleep with their knees bent or their feet hanging out over the edge of the bed.

Going back to the camp cars after a grueling day's work, a worker has to compete with seven other workers for shower time, eat in the camp's often unsanitary dinning car and then attempt to get a restful night's sleep in a crowded camp car with seven other workers, next to an operating train track where mile-long freight trains roar by regularly throughout the night, sounding their horn and shaking the camp car as it passes. It makes for fitful night's rest under the best of circumstances.

Many of the camp cars are old and dilapidated, but even in the cleanest, newest camp car it is an inhuman way to live. With eight men living in such cramped quarters, the camp cars are virtually impossible to keep clean and personal privacy simply does not exist.

According to supervisors we've talked to, Norfolk Southern continues to use the camp cars because it gives them greater control over their work force. It is clear that for Norfolk

Southern management these camp cars are a means of controlling their workforce and keeping it where they need it, when they need it — not unlike the plantations in the dark days of slavery.

These substandard living conditions have no place in our society. Even at its best, camp cars are an inhumane way for an American worker to live. Even in the best of conditions, there is no way the camp cars crammed with eight workers can provide the privacy or the cleanliness for humane living conditions. The MW worker sleeps on the same grimy, filthy sheets week after week, steps into the same dirty shower day after day, and trudges through mud soaked with "gray water" to an outhouse every night and every morning.

Therefore, basic human comfort and sanitation for maintenance of way workers also should be addressed, including the elimination of camp cars used to house BMWED members on the Norfolk Southern, and the discharge on the right of way of effluent from railroad conveyances. The life of a railroader on the maintenance of way road crew is a brutal one. The labor is grueling and physically demanding. It is all outdoors and the workers toil in all forms of weather, rain, snow, and excessive heat. At the end of the day, the workers are exhausted. What they want and need is a place to clean up, a place to eat a nourishing meal and a clean, quiet, and comfortable place in which to sleep. Presently, maintenance of way workers are the only rail workers required to use multi-person lodging facilities to obtain proper rest. Operating craft employees obtain rest in single occupancy lodging and maintenance of way workers should be treated no differently.

In 1988, the FRA issued "Guidelines for Clean, Safe, and Sanitary Railroad Provided Camp Cars" as Appendix C to 49 CFR Part 228. These guidelines are not enforceable regulations and, therefore, have no teeth. While FRA will respond to complaints, their enforcement is basically reduced to making recommendations and facilitating quick fixes. Furthermore, the FRA guidelines do not provide FRA with authority to require such essentials as potable water for washing persons, eating surfaces and utensils. The discharge of "gray water" from sinks and showers onto the ground is also not prohibited by FRA Guidelines.

To address these health issues, the union must often try to find a sympathetic city, county or state health department to conduct an inspection and force compliance with city, county or state public health ordinances. Many times these agencies are denied access and jurisdiction. And in the rare instances where jurisdiction is rightfully claimed by a local agency, the NS simply moves the cars to another location outside the jurisdiction in order to evade local health authorities and enforcement of local ordinances and law.

Camp cars are a health hazard and a blight which must be once and for all eliminated. The union has repeatedly requested NS to abandon camp cars and place workers in hotels like every other rail carrier in the U.S. However, they have refused to do so and expect the union to give one of the most profitable railroads in the country concessions in exchange for treating their workers humanely when every other railroad that has abandoned camp cars actually has saved money by doing so. We have reached the conclusion that an Act of Congress may be the only means of compelling NS to abandon this inhuman practice once and for all.

Equally abhorrent for our BMWED membership is their exposure to effluent discharge from railroad conveyances. On April 4, 2002, the FRA issued a Final Rule in the Locomotive Cab Sanitation proceeding which included provisions to permit discharge of toilet effluent from locomotives onto the railroad right-of-way. *See* 67 FR 16032–16052. We believe that the discharge of untreated or partially treated human waste onto the railroad right-of-way poses a significant health and safety risk to roadway workers and the general public, and adversely impacts the environment through the introduction of contaminants into surface and ground water resources.

Today, this discharge is not being monitored for contaminants or compliance with applicable law. Stakeholders in the process, including the BMWED and the Brotherhood of Railroad Signalmen, filed extensive comments and participated in public hearings to present evidence and voice opposition to provisions of the rule which permit the unmonitored discharge along the railroad right-of-way of potential disease carrying organisms including, but not limited to, total coliform, fecal coliform, and fecal streptococci.

In May 2002, the BMWED filed a Petition for Reconsideration before the FRA. BMWED's petition cited the following deficiencies in the final rule as the basis for its Petition:

1. The Final Rule did not address our valid and verified concerns regarding the potential health consequences of worker exposure to untreated or partially treated effluent discharged from on-board "biological waste treatment systems" such as the Microphor™ toilet.

2. The Final Rule did not incorporate effective safeguards and periodic monitoring of effluent to assure that such systems "perform as intended," i.e., consistently meet the discharge requirements of 0 colonies/100 ml total coliform, 0 colonies/100ml fecal coliform, and 0 colonies/100 ml fecal streptococci under real operating conditions.

3. The Final Rule is devoid of effective provisions to reasonably assure waste disposal methods from locomotive conveyances meet or exceed the current requirements of the Environmental Protection Agency, the Food and Drug Administration (FDA), or the Occupational Safety and Health Administration Standard found at 29 CFR § 1910.141(c)(iii), which states that "the sewage disposal method shall not endanger the health of employees."

We and other affected rail labor organizations contended that the Microphor™ system used in locomotives (and in some passenger cars) has the potential to discharge untreated or partially treated wastes along the right of way under a number of operational and maintenance conditions. Based upon this contention, the Association of American Railroads (AAR) agreed in August 2001 to conduct testing of effluent from Microphor™ systems under a variety of operational conditions. The initial testing indicated that "some units performed as intended, but some apparently do not." 67 FR 16035. According to AAR, "the testing results revealed

inconsistencies in the operation of the Microphor system, which may be due to design changes, maintenance, usage, or other factors." Id.

As noted by FRA "[i]t is widely known that exposure to human fecal matter or untreated sewage waste can lead to diarrheal diseases such as amebiasis, giardiasis, shigellosis and salmonellosis, and viral diseases such as hepatitis." 66 FR 137 (Jan. 2, 2001). FRA further acknowledged that "transmission of these illnesses can occur through physical contact with waste," and that "disease transmission may occur through hand-to-mouth ingestion after physical contact with an infected source." Id.

By letter dated July 6, 2006, FRA denied our Petition for Reconsideration. In denying the petition, FRA stated "[t]he FDA representatives noted that even if a bacteria or virus survives the treatment process, a worker would need to have direct contact with the untreated waste product through touch or aerolization within a short time after discharge for any contamination to occur. Any potential health risk created by the use of Microphor™ toilet systems is minimal." BMWED members and others working along the railroad right of way do, in fact, have the daily potential to come in direct contact with the discharge through touch or aerolization and are often sprayed with discharged liquids as trains pass.

Since the issuance of the Final Rule, FRA has conducted some field tests with the assistance of a private laboratory to determine whether Microphor™ toilet systems properly treat effluent before discharging it onto railroad track beds. FRA acknowledged in their denial letter that "Microphor toilet systems that were in a near empty state, that is, they required a significant number of flushes to cause an effluent to discharge, or where the chlorination system was not properly charged, or both, resulted in effluent that did contain significant levels of pathogens. However, when sampled over time even these levels diminished significantly as the contact with the disinfectant chlorine had its desired effect."

BMWED members routinely eat their lunch along the right-of-way and are seldom afforded access to potable water and antibacterial soap for washing prior to lunch or when otherwise necessary. As such, the Rail Conference reiterates and underscores BMWED's strongly held belief that no on-board toilet facility wastes should be discharged along the railroad right-of-way. If discharge is to be allowed from locomotives and passenger cars, safeguards must be adopted to protect the health of roadway workers, the environment, and the public at large.

We believe a prohibition against discharge of toilet waste from railroad conveyances is the most effective means to address this issue. However, short of a regulatory or statutory prohibition against right-of-way discharge, we believe that, in order to protect employees, the public, and the environment from exposure to untreated or partially treated human wastes, laws governing such discharge should, at minimum, be amended to require:

1. railroad conveyances, including locomotives and passenger cars, shall be prohibited from discharging live organisms along the railroad right-of-way;

2. maintenance of on-board toilet facilities shall be in accordance with the manufacturer's recommended maintenance procedures; and

3. FRA shall conduct random sampling of discharged effluent for live organisms, including but not limited to, total coliform, fecal coliform, and fecal streptococci, from 10% of the equipped locomotive and passenger fleet annually.

These requirements are intended to provide ongoing verification to assure these systems "perform as intended" (i.e., consistently discharge effluent free of live organisms at the instant of discharge). Absent a regulatory prohibition against right-of-way discharge, it remains absolutely imperative to the safety and health of roadway workers and the protection of the environment that FRA and/or FDA prohibit discharge of live organisms and establish maintenance, inspection, and testing requirements for railroad conveyances. Such is the only verifiable means to assure that no viable (live) organisms are present in the effluent at the instant of discharge into the environment. This is a reasonable, performance-based approach that will allow continued use of these systems while providing ongoing data monitoring to assure such systems "operate as intended" and do not pose a health risk to roadway workers and the public along the railroad right-of-way, or cause environmental contamination of our nation's surface and ground water resources.

The Teamsters Rail Conference also is concerned about the high number of accidents at public and private grade crossings. In 2005, there were 3,041 accidents at grade crossings, resulting in 357 fatalities and 1,010 injuries. Some of these accidents were the result of highway users ignoring or circumventing active warning devices at grade crossings. Thus, an emphasis on public awareness, education, and enforcement should be continued and enhanced, and penalties for ignoring or circumventing active warning devices at grade crossings should be significantly increased.

The use of roadside cameras and other available technology to identify and punish highway users who circumvent grade crossing protection gates should also be expanded. Uniform and highly visible signage at grade crossings, and advance signage on the approach to grade crossings, should be mandatory. Finally, laws should be adopted governing the control of brush and vegetation near grade crossings, including the establishment of minimum line-of-sight distances based upon the maximum authorized speed of trains, to make train traffic more visible to the highway user. At crossings where such line-of-sight minimums can not be met due to curvature or other physical conditions, active warning devises (i.e., lights and gates) should be mandatory.

Before closing I want to return to the subject, once again, of human factor caused accidents. It is important to for the Subcommittee to understand that accident reporting is solely the responsibility of the regulated railroad community. The accident data compiled by FRA is dependent upon what, how, when, and if the information is reported by the industry itself. Under the current regulatory scheme, the railroad reporting an accident or injury determines the cause code(s) attributed to that accident or injury, and railroads almost never engage in a full-blown root cause analysis to determine primary, secondary, contributing or upstream causes. This is

somewhat akin to the fox guarding the hen house in our view, because FRA simply does not have the resources to investigate any but a tiny percentage of reported accidents and injuries.

We believe a significant number of reported accidents attributed to human error or other human factors are partly the result of such self-reporting and coding. Why would a railroad implicate itself by coding mechanical, track, or signal defects when it can easily "blame the worker," which is far more convenient. Over time, this has led to FRA enforcement increasingly shifting from penalizing railroads to penalizing individual workers. To address this situation, the Teamsters Rail Conference supports and urges increased funding for FRA, which should be dedicated toward investigating more accidents and verifying proper coding of accident causes.

Once again, I thank the Subcommittee for hearing us today, and I'm happy to try to answer any questions you may have.